

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

ROBERT CRAIG CASSIDY, D/B/A MOUNTAIN
TIME AUCTIONS, ANTIQUES, AND MATTRESSES,

Plaintiff,

-against-

ERIC MADOFF, EXECUTIVE DIRECTOR, NEW
YORK STATE INSURANCE FUND; NEW YORK
STATE INSURANCE FUND; TITIAN DION
PERSONALLY AND AS AN EMPLOYEE OF THE
NEW YORK STATE INSURANCE FUND; CLARISSA
M. RODRIGUEZ, CHAIR, NEW YORK WORKERS'
COMPENSATION BOARD; NEW YORK WORKERS'
COMPENSATION BOARD; FRIEDA FOSTER,
ELLEN O. POPROCKI, MARK HIGGINS, LOREN
LOBBAN, SAMUEL G. WILLIAMS, LINDA HULL,
FREDERICK M. AUSILI, STEVEN A. CRAIN, MARK
R. STASKO, PERSONALLY AND AS
COMMISSIONERS OF THE NEW YORK WORKERS'
COMPENSATION BOARD; J.J. DOE1, J.J. DOE2, J.J.
DOE 3, PERSONALLY AND AS MEMBERS OF
PENALTY REVIEW UNIT (NEG) NEW YORK
WORKERS' COMPENSATION BOARD; JEFF
MERSMANN, PRESIDENT, PIONEER CREDIT
RECOVERY INC., A NAVIANT COMPANY; AND
PIONEER CREDIT RECOVERY, INC.,

Defendants.

**AFFIRMATION OF
JOSEPH SLATER**

**IN SUPPORT OF STATE
DEFENDANTS' MOTION
TO DISMISS
AMENDED COMPLAINT**

Docket No.: 8:18-cv-394
(BKS/DJS)

Joseph Slater, an attorney licensed to practice law in the State of New York, affirms under penalties of perjury the following:

1. I am employed as a Senior Attorney at the New York State Workers' Compensation Board ("WCB"). In my role as a Senior Attorney at the WCB and based upon my review of the electronic employer's file maintained by the WCB, I have personal knowledge as to the facts and circumstances of this case.

2. I have been provided with a copy of the Amended Complaint in this case and I have reviewed the same.

3. Mr. Cassidy included with his Amended Complaint, a copy of a penalty notice dated June 2, 2016. It is found on the Court's ECF Docket as Dkt. 24, Page 42 of 57.

4. The document that Mr. Cassidy attached, however, is not the complete document that was sent to him as shown in the WCB's electronic employer's file. On the first page of the document, Mr. Cassidy attached to his Amended Complaint, it states "Page 1 of 2" and further contains language: "(Continued on reverse)." *See* Dkt. 24, Page 42 of 57.

5. The complete penalty notice, which includes the second page of the notice that was omitted from Mr. Cassidy's Amended Complaint, is attached hereto as "Exhibit A."

6. The second page of the notice also refers to (among other things) an "attached form" that is to be used for the employer to request a review of the penalty. That attached form was also omitted from Mr. Cassidy's Amended Complaint. Attached hereto as "Exhibit B" is a copy of the form that was provided to Mr. Cassidy with the penalty notice. As is evident from the form, Mr. Cassidy not only received the attached form, but also completed the form and returned it to the WCB with his "Attached Sheets for Explanation."

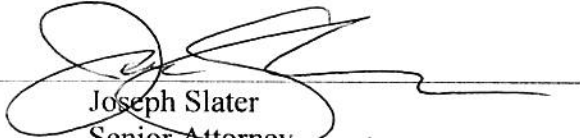
7. Mr. Cassidy included the "Attached Sheets for Explanation" with his Amended Complaint at Dkt. 24, Pages 43 of 57 through Pages 46 of 57.

8. Plaintiff attached several documents with his Amended Complaint, but failed altogether to attach the Final Notice which was mailed to Plaintiff on or about November 28, 2017. This Notice specifically informed Plaintiff that the Board would file a judgment against the Plaintiff if payment of the outstanding penalty amount was not received. Attached hereto as "Exhibit C" is a copy of the Final Notice.

9. The judgment was filed approximately four (4) months later on March 30, 2018.

10. Between the issuance of the Final Notice in November 2017, and the filing of the judgment in late March, WCB has no record that the Plaintiff submitted any additional materials


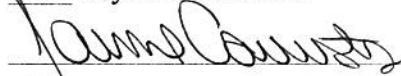
Dated: June 28, 2019
Schenectady, New York



Joseph Slater
Senior Attorney
NYS Workers' Compensation Board
328 State Street
Schenectady, NY 12305
(518) 402-9540

Sworn to before me this

28th day of June 2019.



Notary Public

JAIME CAVUOTO
NOTARY PUBLIC-STATE OF NEW YORK
No. 01CA6308635
Qualified in Montgomery County
My Commission Expires July 28, 2022